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	TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR			BECK, ALEXANDER S		
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Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)		
		10/025,838	KEHLSTADT ET AL.		
	Office Action Summary	Examiner	Art Unit		
		Alexander S. Beck	2675		
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the c	orrespondence address		
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DANSIONS of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. Depriod for reply is specified above, the maximum statutory period warre to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing led patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be timude will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE.	N. nely filed the mailing date of this communication. D. (35 U.S.C. § 133).		
Status					
1)⊠	Responsive to communication(s) filed on 13 De	ecember 2004.			
	This action is <b>FINAL</b> . 2b) This action is non-final.				
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
	closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	33 O.G. 213.		
Disposit	ion of Claims				
5)⊠ 6)⊠ 7)□	Claim(s) 1-29 is/are pending in the application.  4a) Of the above claim(s) is/are withdraw Claim(s) 2,5,6,9,13,14,16,17 and 29 is/are allow Claim(s) 1,3,4,7,8,10-12,15 and 18-28 is/are reclaim(s) is/are objected to.  Claim(s) are subject to restriction and/or	vn from consideration. wed. ejected.	•		
Applicati	ion Papers				
10)	The specification is objected to by the Examiner The drawing(s) filed on is/are: a) access Applicant may not request that any objection to the conference of Replacement drawing sheet(s) including the correction of the oath or declaration is objected to by the Examiner.	epted or b) objected to by the for drawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). rected to. See 37 CFR 1.121(d).		
Priority ι	under 35 U.S.C. § 119	•			
12) [ a)	Acknowledgment is made of a claim for foreign  All b) Some * c) None of:  1. Certified copies of the priority documents  2. Certified copies of the priority documents  3. Copies of the certified copies of the priorical application from the International Bureau  See the attached detailed Office action for a list of	s have been received. s have been received in Application tity documents have been received (PCT Rule 17.2(a)).	on No ed in this National Stage		
Attachmen		a) □ Internations comme	(PTO 412)		
2)  Notic 3)  Inform	e of References Cited (PTO-892) se of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date	4)  Interview Summary Paper No(s)/Mail Da 5)  Notice of Informal P 6) Other:	(PTO-413) te atent Application (PTO-152)		

#### **DETAILED ACTION**

### Response to Amendment

1. Acknowledgement is made of the amendment filed by the Applicant on 12/13/2004, in which: Claims 12,18,20 and 25 were amended; and the rejection of Claims 1,4,7,10,11,15,26,27 and 28 was disputed. **Claims 1-29** are currently pending in US Application Serial No. 10/025,838, and an Office Action on the merits follows.

## Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 3. Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Lilenfield (6,545,667).

As to independent Claim 1, Lilenfield teaches a mouse (column 1, lines 15-20) comprising: a housing for supporting a user's hand (figure 4, item 11), first and second buttons mounted on said housing (figure 4, items 12 and 14), a pointing sensor mounted in said housing between said buttons for providing a pointing signal (figure 4, item 16), a contour on said housing for receiving a finger of said user, said contour having curvature in at least one directions (figure 4 illustrates the outline of a body with a finger on it and it has curvature

everywhere), a solid-state touch sensor in said contour for detecting movement of said finger along said contour (figure 4, item 16, column 5, lines 60-65).

As to Claim 8, Lilenfield teaches the device of claim 1 further comprising: a sensory feedback element for providing feedback to a user corresponding to an amount of movement of said finger in said contour (figure 6a, column 1, lines 33-51 wherein a cursor on the screen would have provided "eye" sensory feedback).

## Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 3, 4, 12, 25, 26, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lilenfield (6,545,667) in view of Mabusth (4,550,221).

As to Claim 3 Lilenfield does not illustrate the details, "wherein said touch sensor comprises: at least two electrodes mounted in said contour, and a capacitive detection circuit connected to said electrodes for detecting a change in capacitance due to a contact of said finger with said electrodes". Lilenfield instead teaches a touch sensor on the contour and does not teach what kind of conventional touch sensor it is.

Mabusth illustrates it is a common practice to make touch sensors with at least two electrodes and form a capacitive detection circuit (SEE Mabusth figure 2).

It would have been obvious to one or ordinary skill in the art at the time the invention was made to implement the Lilenfield touch pad part like the one illustrated by Mabusth because since Lilenfield lacked details on how to implement the touch pad part one would have been motivated to use prior proven concepts that tend to be cost effective and expedient.

As to independent Claim 12, the combination of Lilenfield and Mabusth teaches a pointing device (SEE Lilenfield column 1, lines 15-20) comprising: a housing (SEE Lilenfield figure 4, item 11), a pointing sensor mounted in said housing for providing a pointing signal, (SEE Lilenfield figure 4, item 16) a plurality of discrete electrodes mounted on said housing to detect movement of a finger (SEE Mabusth figure 3 which as implemented on surface forms part of body of Lilenfield), wherein at least first and second electrodes are electrically connected, a third electrode isolated from said first and second electrodes by a portion of said housing contacted by said finger (SEE Mabusth figure 3 where it is inherent that the three or more electrodes are each electrically connected to a sensor or they would not work and further each of the three or more electrodes are isolated from each other or it would shod out), said third electrode being mounted where a finger will contact said third electrode in between contacting said first and second electrodes (SEE Mabusth figure 3 where It is arbitrary what electrode we call first second and third in figure 3 so therefore it reads on this broad language), and a circuit, connected to said electrodes, for detecting contact of said finger with said electrodes (SEE Mabusth figure 5).

As to independent Claim 25, the combination of Lilenfield and Mabusth teaches a mouse (SEE Lilenfield column 1, lines 15-20) comprising: a housing for supporting a user's hand (SEE Lilenfield figure 4, item 11), first and second buttons mounted on said housing (SEE

Lilenfield figure 4, items 12 and 14), a pointing sensor mounted in said housing for providing a pointing signal (SEE Lilenfield figure 4, item 16), a solid- state touch sensor having at least two discrete electrodes mounted between said buttons (SEE Mabusth figure 3 which as implemented on surface forms pad of body of Lilenfield), said electrodes being separated with a portion of said housing contacted by a finger of said user in between said electrodes (SEE Mabusth figure 3 where it is inherent that the three or more electrodes are each electrically connected to a sensor or they would not work and further each of the three or more electrodes are isolated from each other or it would short out), said sensor detecting movement of said finger from one electrode to another (SEE Mabusth figure 5).

As to independent **Claim 4**, all of the limitations were addressed by the combination of Lilenfield and Mabusth in claims 3, 12 and 25 above.

As to independent Claim 26, most of the limitations were addressed already by the combination of Lilenfield and Mabusth above in claims 1 and 3 above and with regard to the additional limitation "a control circuit, in said pointing device, for detecting a speed of movement between said two electrodes, and sending a movement signal to a computer for a number of movements corresponding to said speed (SEE Mabusth figure 10 reads on "control circuit" where it is obvious that item 10 monitors the speed of a finger moving on the touch surface because irregardless of the finger moving slow or fast item 10 will monitor it and have a cursor in relation to the speed of finger move, note this claim language is very broad here).

As to Claim 27, the combination "wherein said movement signal comprises a scrolling signal (SEE Mabusth column 6, of Lilenfield and Mabusth suggest lines 55-63).

As to independent Claim 28, most of the limitations were addressed already by the combination of Lilenfield and Mabusth above in claims 1 and 3 above and with regard to the additional limitation "sensor using capacitive sensing with a galvanic contact by said finger" (SEE Mabusth column 3, lines 1-15 and figure 7).

6. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lilenfield (6,545,667) in view of Stephan et al. (5,748,185).

As to independent Claim 15, Lilenfield teaches a mouse (SEE Lilenfield column 1, lines 15-20) comprising: a housing for supporting a user's hand (SEE Lilenfield figure 4, item 11), first and second buttons mounted on said housing (SEE Lilenfield figure 4, items 12 and 14), a pointing sensor mounted in said housing for providing a pointing signal ( SEE Lilenfield figure 4. item 16).

Lilenfield does not illustrate "a stationary scrolling sensor mounted on said housing between said buttons". Lilenfield in the embodiment show in figure 4 instead illustrates his pointing device is mounted between the buttons and does not explicitly illustrate having a scrolling sensor in this embodiment, but NOTE Lilenfield does have an illustration of an embodiment in figure 2 that does have both a scrolling device and a pointing device but now the scrolling device is between the buttons and the pointing device is off to the side. Since Lilenfield separately demonstrates in two embodiments the scrolling device and pointing device located between the buttons it would have been obvious to put both of them between the buttons in a third embodiment because the mere rearrangement of parts absent criticality is considered obvious.

And in addition Stephan et al. teaches "a stationary scrolling sensor" and a "pointing device" located right by each other (See Stephan et al. figure 3, items 86, 88, and 90).

It would have been obvious to one or ordinary skill in the art at the time the invention was made to have a stationary scrolling sensor and a pointing device located by each other as taught by Stephan et al. and to have them between the buttons as taught by Lilenfield because the mere rearrangement of parts absent criticality is considered obvious and as further motivation it requires less movement of the hand to operate this way of having all controls more centralized.

With further regard to Claim 15 the combination of Lilenfield and Stephan et al. teaches said scrolling sensor providing a scrolling command in response to a movement of a users finger across said stationary sensor (SEE Stephan et al. figure 4), and continuing to provide said scrolling command in response to said finger reaching one end of said stationary scrolling sensor without lifting off (SEE Stephan et al. figure 4, item 131).

As to independent Claim 7, all of the limitations were addressed by the combination of Lilenfield and Stephen et al. in claim 15.

7. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lilenfield (6,545,667) in view of Vaghefi et al. (6,429,851).

As to independent Claim 10, most of the limitations were addressed above by Lilenfield in claims 1 and 8 but Lilenfield does not illustrate "wherein said sensory feedback element comprises a speaker mounted in said pointing device".

Vaghefi et al. teaches a speaker mounted in a pointing device (figure 17 item M). It would have been obvious to one or ordinary skill in the art at the time the invention was made to modify the Lilenfield apparatus to have a speaker as taught by Vaghefi et al. because Vaghefi et al teaches this is more child friendly.

As to independent Claim 11, most of the limitations were addressed above by Lilenfield in claims 1 and 8 and the combination of Lilenfield teaches "wherein said contour is a least partially translucent, and further comprising a light emitting element mounted in said pointing device" (SEE Vaghefi et al. column 2, lines 20-37).

8. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghefi et al. (6,429,851).

As to independent Claim 18, Vaghefi et al. teaches a pointing device comprising: a housing for supporting a user's hand (figure 6, item 10), a pointing sensor mounted in said housing for providing a pointing signal (figure 8, item 40, column 1, lines 30-34), a scrolling activator for providing a scrolling signal (since column 2, lines 20-37 teach it's a standard functioning mouse the use feature "a scrolling activator for providing a scrolling signal" is viewed as merely directed towards an "OBVIOUS INTENDED USE" of the mouse in a GUI) a speaker mounted in said pointing device (column 4, lines 7-10, figure 17, item 34), for emanating sounds in response to said scrolling signal, said sounds simulating the sounds emanated by a mechanical roller (abstract "normal operation of the buttons causes the production of a sound or sounds', for example column 4, line 11, "when the track ball is rotated", therefore it is obvious

that as the mouse is moving the scroll bar in a GUI a sound will be produced and this simply reads on the broad language of this claim).

As to Claim 19, Vaghefi et al. teaches the pointing device of claim 18 wherein said device is a mouse (column 2, lines 50-53).

9. Claims 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaghefi et al. (6,429,851) in view of Rosenberg et al. (6,310,605) and Schauser (6,331,855).

As to independent Claim 20, Vaghefi teaches/suggests a pointing device for use with a computer system (column 2, lines 21-25), comprising: a housing for supporting a user's hand (figure 6, item 10); a pointer sensor, mounted in said housing for providing a pointing signal (figure 8, item 40, column 1, lines 30-34); a scrolling activator for providing a scrolling signal (since column 2, lines 20-37 teach it's a standard functioning mouse the use feature "a scrolling activator for providing a scrolling signal" is viewed as merely directed towards an "OBVIOUS INTENDED USE" of the mouse in a GUI); and a notification element, mounted in said pointing device, for providing a notification to a user (column 2, lines 21-37).

Vaghefi does not disclose expressly wherein the notification is responsive to an event received by the pointing device from said computer system, which said computer system received from a remote computer over a network.

Rosenberg et al. teaches/suggests a pointing device for user with a computer system comprising: a notification element, mounted in said pointing device, for providing a notification to a user responsive to an event received by said pointing device from said computer system

Application/Control Number: 10/025,838

Art Unit: 2675

(figure 5, column 16, line 63 – column 17, line 11), wherein the event is when a cursor is in a position to select an icon in a graphical user interface.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the pointing device of Vaghefi, such that notification responsive to an event was received by said pointing device from said computer system, as taught/suggested by Rosenberg et al.

The suggestion/motivation for doing so would have been inform a user as to when a cursor was in position to select an icon thus assisting the user in positioning the cursor accurately on the icon when desired (column 16, line 63 – column 17, line 11).

Schauser teaches/suggests a remote desktop access technology, in which a user is able to control a remote computer as if sitting right in front of it. The user can perform numerous actions including running applications and accessing files. (column 1, line 15 – column 2, line 19).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to realize that when the modified pointing device of Vaghefi and Rosenberg et al. is used with remote desktop access technology, as taught/suggested by Schauser, notification is provided to a user responsive to an event received by said pointing device from said computer system, which said computer system received from a remote computer over a network.

The suggestion would have been because to a user sitting at a local computer using said pointing device to control programs on a remote computer, it appears as if the user is sitting in front of the screen of the remote computer. Thus, when the user opens an application, which inherently includes positioning a cursor over an icon, the remote computer informs the

local computer that the cursor is positioned over the icon, and the local computer informs the pointing device that the cursor is positioned over the icon, as discussed above.

As to Claim 21 Vaghefi et al. teaches the pointing device of claim 20 wherein said device is a mouse (column 2, lines 50-53).

As to Claim 22 Vaghefi et al. teaches the pointing device of claim 20 wherein said notification element is a light emitter (column 2, lines 30-33).

As to Claim 23 Vaghefi et al. teaches the pointing device of claim 22 wherein said light emitter blinks to provide said notification (column 2, lines 30-33).

As to Claim 24 Vaghefi et al. teaches the pointing device of claim 20 wherein said notification element is a speaker (figure 17, item 34).

## Allowable Subject Matter

- 10. Claims 2,5,6,9,13,14,16,17 and 29 are allowed.
- 11. The following is an examiner's statement of reasons for allowance: see previous Office Action (i.e., the non-final Office Action mailed on 09/08/2004.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

## Response to Arguments

12. Applicant's arguments filed 12/13/2004 have been fully considered but they are not persuasive.

Regarding reference Lilenfield, Applicant argues, "However, item 16 is not a solid state touch sensor. Rather, it is described as a ball, with mechanical springs below it.) (pg 10, ln 5-12).

Examiner respectfully disagrees. Examiner notes that Lilenfield does not limit item 16 to be a ball with mechanical springs below it. Rather, Lilenfield teaches/suggests wherein item 16 may be a variety of cursor controlling types such as a touchpad (i.e., solid state sensor) (column 5, lines 60-64).

Applicant argues, "The present invention is directed to a way of putting a solid state touch sensor along a curved, contour surface. Such a contour allows the finger to move naturally. The placement of a solid state sensor in such a configuration is not obvious, as typically solid state sensors are placed on flat surfaces. When the surface is not flat, typically a different, non solid state sensor is used, such as Lilenfield." (page 10, lines 7-12).

Examiner respectfully disagrees. Examiner notes that Lilenfield teaches/suggests the body 11 of the mouse having curvatures 20 that accommodate a user's fingers. Within these curvatures are cursor controlling devices 12 and 14 that are typically situated on a flat surface in conventional mouse (column 6, lines 14-21). However, Lilenfield places these conventionally flat cursor controlling devices 12 and 14 within the curvatures 20 of the mouse such that they can be activated by inward flexing of the user's finger or fingertip, unlike ordinary mice, which require a downward pressing (column 6, lines 22-45). It is therefore suggested that a conventionally flat cursor controlling device requiring a downward pressing motion (i.e.,

actuatable buttons, touchpad, etc), be configured within a housing curvature of a mouse such that the device can be activated by inward flexing of the user's finger or fingertip to allow for easy use (column 6, lines 14-15).

Applicant argues, "Claims 12 and 25 have been amended to clarify that the electrodes are separated by the portion of the housing that the finger contacts, not simply electrically isolated as in Mabusth." (page 10, lines 16-19).

Examiner respectfully disagrees. Examiner notes that Mabusth teaches: (1) a solid state sensor comprising a plurality of discrete electrodes Y<sub>1</sub>-Y<sub>12</sub> mounted on a housing 32 to detect movement of a finger, wherein at least first and second electrodes Y<sub>1</sub>-Y<sub>12</sub> are electrically connected; a third electrode X<sub>1</sub>-X<sub>12</sub> isolated from the first and second electrodes Y<sub>1</sub>-Y<sub>12</sub> by a portion of the housing 32 contacted by the finger, the third electrode X<sub>1</sub>-X<sub>12</sub> being mounted where a finger will contact the third electrode in between contacting the first and second electrodes (figure 3, column 3, lines 43 – column 5, lines 39). As can be seen in the drawings, the electrodes Y<sub>1</sub>-Y<sub>12</sub> and electrodes X<sub>1</sub>-X<sub>12</sub> are alternately arranged such that any given X electrode is isolated in between any two adjacent Y electrodes. Furthermore, the entire touchpad surface is homogenously sprayed/laminated a thin insulating layer 32, which comprises a part of the housing (figure 2, column 4, lines 4-17). It is therefore suggested that the housing 32 contacted by the finger is present in between adjacent X and Y electrodes, given that the housing 32 is homogenously distributed, thus isolating the X electrodes from the Y electrodes.

Applicant argues, "With respect to claim 28, applicant believes it is not obvious to combine

Lilenfield and Mabusth to produce the invention set forth in claim 28. Mabusth shows the entire device

Application/Control Number: 10/025,838

Art Unit: 2675

being a touch sensor, as a replacement device for a mouse. There is nothing to indicate that it could be shrunk and mounted on a mouse, absent hindsight from the present invention." (page 10, lines 25-27).

Examiner respectfully disagrees. "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). See also In re Sneed, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) ("[I]It is not necessary that the inventions of the references be physically combinable to render obvious the invention under review."); and In re Nievelt, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973) ("Combining the teachings of references does not involve an ability to combine their specific structures."). Examiner notes that Lilenfield teaches/suggests every limitation of claim 28, with the exception of the detailed description of the solid state sensor. Lilenfield teaches/suggests a touchpad sensor being shrunk and mounted on a mouse (column 5, lines 60-64). Mabusth is being relied upon for teaching/suggesting details of the solid state sensor presently claimed in claim 28, and not disclosed expressly by Lilenfield.

Applicant argues, "Claim 18 has been amended to clearly set forth that the sound emulates the sound of a mechanical roller. Accordingly, with this amendment, Vaghefi is believed to be non-obviously distinguished." (page 11, lines 1-4).

Examiner respectfully disagrees. Examiner notes that Vaghefi teaches/suggests a mouse wherein the sound emulated is not limited to animals. Rather, the sounds may be similar to those made by cars/trucks/robots (column 5, lines 11-25), any of which may be representative of a mechanical roller (i.e., a mechanical wheel rotating about an axis).

13. Applicant's arguments, see page 11, lines 5-9, filed 12/13/2004, with respect to the rejection of claims 20-24 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of Vaghefi, Rosenberg et al. and Schauser. A detailed description can be found above in paragraph 9.

#### Conclusion

14. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Alexander S. Beck** whose telephone number is **(571) 272-7765**. The examiner can normally be reached on M-F, 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Sumati Lefkowitz** can be reached on **(571) 272-3638**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Application/Control Number: 10/025,838

Art Unit: 2675

Page 16

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asb

SUMATI LEFKOWITZ SUPERVISORY PATENT EXAMINER